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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,600	10/01/2003	William J. Parish		4492

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Norman B. Rainer
2008 Fondulac Road
Richmond, VA 23229

EXAMINER

GUADALUPE, YARITZA

ART UNIT PAPER NUMBER

2859

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,600

Applicant(s)

PARISH, WILLIAM J. 

Examiner

Yaritza Guadalupe

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-9 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 3 are rejected under 35 U.S.C. 102 (b) as being anticipated by Brudi et al. (US 3,865,265).

Brudi et al. discloses an incline indicator for the mast of a forklift comprising a base member (24) comprising a flat panel bounded in part by interior and exterior surfaces and forward and rearward edge extremities, said forward edge extremity having an abutment projection (72, 74) orthogonally disposed to said panel and directed outwardly from said exterior surface, wherein said abutment projection is a panel formed as a continuous integral extension of said flat panel and adapted to abut against mast, an elongated weighted pendulum (84) pendently supported at its upper extremity by pivot means (85) secured to said interior surface and which permits swinging movement of said pendulum in a vertical plane parallel to said interior surface, an elongated activating arm (26) secured to the upper extremity of said pendulum in orthogonal relationship to the direction of elongation of said pendulum and

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extending to a distal extremity located adjacent the forward edge extremity of said panel, a sliding member (28b) moveable by said activating arm, and having a forward portion.

Brudi et al. also discloses a straight track means associated with said interior surface adjacent said forward edge extremity and engaging said sliding member, whereby said sliding member is constrained to reciprocating linear movement in a path parallel to said forward edge extremity, pointer means associated with the forward portion of said sliding member, and a cover member configured to fit onto said base member in facing relationship to said interior surface in a manner to protectively embrace said pendulum, activating arm and sliding member, and having a forward lip containing an elongated window which permits observation of said pointer means, and markings interactive with said pointer means to indicate the degree and direction of incline of said mast within a vertical plane. Brudi et al. discloses said base member being adapted to be attached to said mast (See Figure 1).

3. Claims 1 – 4 and 6 - 9 rejected under 35 U.S.C. 102 (b) as being anticipated by Haynie (US 3,800,425).

Haynie discloses an incline indicator for the mast of a forklift comprising a base member (22) comprising a flat panel bounded in part by interior and exterior surfaces and forward and rearward edge extremities, said forward edge extremity having an abutment projection (34) orthogonally disposed to said panel and directed outwardly from said exterior surface, wherein

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said abutment projection is a panel formed as a continuous integral extension of said flat panel and adapted to abut against mast, an elongated weighted pendulum (26) pendently supported at its upper extremity by pivot means (24) secured to said interior surface and which permits swinging movement of said pendulum in a vertical plane parallel to said interior surface, an elongated activating arm (20) secured to the upper extremity of said pendulum in orthogonal relationship to the direction of elongation of said pendulum and extending to a distal extremity located adjacent the forward edge extremity of said panel, a sliding member / pointer (54) moveable by said activating arm, and having a forward portion.

Haynie also discloses a straight track means associated with said interior surface adjacent said forward edge extremity and engaging said sliding member, whereby said sliding member is constrained to reciprocating linear movement in a path parallel to said forward edge extremity, pointer means associated with the forward portion of said sliding member, and a cover member (16) configured to fit onto said base member in facing relationship to said interior surface in a manner to protectively embrace said pendulum, said activating arm and sliding member, and having a forward lip containing an elongated window which permits observation of said pointer means, and markings interactive with said pointer means to indicate the degree and direction of incline of said mast within a vertical plane. Haynie further discloses said base member being adapted to be attached to said mast (See Figure 2).

Haynie teaches an elongated retaining means associated with said activating arm adjacent said distal extremity thereof, wherein said retaining means is a slot bounded by parallel straight bearing surfaces (See Column 2, lines 60 – 66). Haynie also discloses said track means comprising rod means of rounded, substantially cylindrical configuration, wherein said sliding member includes a guide channel which slideably accommodates said rod means.

Allowable Subject Matter

4. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are considered of relevance to the present application :

- a. Kaminski (US 4,495,706)
- b. Wilhelm (US 3,883,021)

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- c. Foss et al. (US 5,956,855)
- d. Boelling (US 5,680,707)
- e. Jysky et al. (US 3,975,831)
- f. McKenna et al. (US 4,356,638)
- g. White (US 4,467,928)
- h. Cloyd (US 3,889,627)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (571)272 -2244.

The examiner can normally be reached on 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yaritza Guadalupe
Patent Examiner
Art Unit 2859
June 10, 2004

DIEGO F.F. GUTIERREZ
SUPERVISOR PATENT EXAMINER
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